

### **REMARKS/ARGUMENTS**

Claims 1-9, 22-24 and 26-30 are pending. Claims 10-21, 25, and 31-32 have been canceled without disclosing the subject matter therein. Applicant reserves all right to pursue these or other claims in a continuing application. In light of the amendments and following remarks, Applicant believes all the pending claims are in condition for allowance.

#### **Formal Matters**

Applicant appreciates the Examiner's courtesy in discussing the subject application in a telephonic interview on August 27, 2004. The invention, claims and cited art was discussed, but no specific agreement was made.

Applicant amended the specification and dependency of claim 3 to remedy the issues cited in the specification. Accordingly, these objections have been overcome.

#### **The § 102(e) Rejection of Claims 1-4, 22-23 and 26-28**

Claims 1-4, 22-23 and 26-28 were rejected under 35 USC § 102(e) as being allegedly anticipated by U.S. Patent No. 6,473,403, issued October 29, 2002 to Bare (note: the Office Action cites Bare as having patent number 6,621,810, but the rejection seems to be based on Bare so it is believed the correct patent number is 6,473,403). For the following reasons, Applicant respectfully traverses the rejection.

With regard to claims 1-4 and 26-28, the claims have been amended to recite that a per-session load balancing algorithm is utilized on multiple routers to reduce correlation of distribution of sessions among the active paths. Bare is cited as showing load balancing, but the reference has not been shown to describe reducing correlation of distribution of sessions among the active paths as claimed.

As recited in the background of the application, there are known methods for performing per session load balancing (see page 2, line 16 to page 3, line 8). However, these techniques exhibit a correlation of distribution of sessions among the active paths (see also page 9, line 22 to page 10, line 11). The Office Action has not cited where Bare discloses configuring a per session load balancing algorithm at a selected router in order to reduce this correlation at other routers as recited in claim 1. Thus, the Bare reference does not support a prima facie case of anticipation.

With regard to claims 22 and 23, the claims have been amended to more clearly recite setting a router with the same model or manufacturer to a different load balancing algorithm. Bare is cited as showing that load balancing can be implemented differently at different switches, however, Bare has not been shown to disclose the steps of selecting a router from same routers (as defined in either claim 22 or 23) and setting the router to have a different load balancing algorithm (see page 10, lines 12-19). Accordingly, Bare does not support a prima facie case of anticipation.

#### The § 102(e) Rejection of Claims 5-7, 24 and 29-30

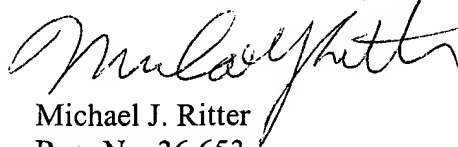
Claims 5-7, 24 and 29-30 were rejected under 35 USC § 102(e) as being allegedly anticipated by U.S. Patent No. 6,363,077, issued March 26, 2002 to Wong et al. (hereinafter "Wong"). For the following reasons, Applicant respectfully traverses the rejection.

With regard to claims 5-7, 24 and 29-30, the claims recite that an identifier associated with a router is utilized with source and destination addresses to select an output path. Col. 6, lines 12-19 of Wong is cited as disclosing these features. However, this section describes utilizing the source port to selected a destination port. As Wong does not disclose utilizing an identifier associated with a router in a load balancing algorithm as claimed, the reference does not support a prima facie case of anticipation.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8693.

Respectfully submitted,



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